

## SECOND / THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-2008-0099 - 1600 Block of East MLK

REQUEST: Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1600, 1602, 1604 and 1606 E. Martin Luther King Jr. Boulevard (Upper Boggy Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-central urban redevelopment-neighborhood plan (LR-MU-V-CO-CURE-NP) combining district zoning. Staff Recommendation: To grant neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (LR-MU-V-CO-NP) combining district zoning. Planning Commission Recommendation: To grant neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-central urban redevelopment-neighborhood plan (LR-MU-V-CO-CURE-NP) combining district zoning.

ISSUES: The Blackland Neighborhood Association and the Blackland Community Development corporation support the request. A valid petition of 36.25% exists in opposition to the request. Some of the signatures have indicated their intent to remove the name from the petition but have not formally done so. If those were removed the petition would still be valid at 26.39%

APPLICANT: E-MLK Properties, L.L.C.

AGENT: Ryan Diepenbrock, PSW Real Estate.

DATE OF FIRST READING: December 11, 2008:

CITY COUNCIL HEARING DATE: January 15, 2009

CITY COUNCIL ACTION:

**The public hearing was closed and the first reading of the ordinance for neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-central urban redevelopment-neighborhood plan (LR-MU-V-CO-CURE-NP) combining district zoning was approved on Council Member Martinez' motion, Council Member Cole's second on a 5-2 vote. Council Members Leffingwell and Morrison voted nay. Those voting yea were: Mayor Wynn, Mayor Pro Tem McCracken, and Council Members Cole, Martinez, and Shade. Those voting nay were: Council Members Leffingwell and Morrison.**

CASE MANAGER: Robert Heil 974-2330

e-mail address: robert.heil@ci.austin.tx.us

**ZONING CHANGE AND NEIGHBORHOOD PLAN AMENDMENT  
REVIEW SHEET**

**CASE#:** NPA-2007-0012.02 and C14-2008-0099

**PC DATE:** July 22, 2008  
November 25, 2008  
December 9, 2008

**ADDRESS:** 1600, 1602, 1604 and 1606 E. Martin Luther King Blvd

**APPLICANT/OWNER:** E-MLK Properties, LLC

**AGENT:** PSW Real Estate (Ryan Diepenbrock)

**AREA:** 1.00 acre

**LAND USE FROM:** Single Family

**TO:** Neighborhood Mixed-Use

**ZONING FROM:** SF-3-NP

**TO:** LR-MU-V-CO-CURE-NP (see below)

**STAFF RECOMMENDATION:**

Staff recommends

- 1) Neighborhood Mixed Use Land Use, and
- 2) Neighborhood Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay (LR-MU-V-CO-NP) combining district zoning. The conditional overlay would include limit the development to less than 2000 daily vehicle trips.

**PLANNING COMMISSION RECOMMENDATION:**

**July 22, 2008:** Approved staff recommendation for both the neighborhood plan amendment and the zoning change on a vote of 6-2-1.

**NOTE:** This case was originally heard by the Planning Commission on July 22, 2008. After that hearing, the applicant amended the zoning portion of his request, and the new zoning request was re-presented to Planning Commission. The neighborhood plan amendment portion of the request was not reconsidered.

**November 25, 2008:** Left open the public hearing and postponed action until December 9, 2008. (8-0-1) (Cavazos abstaining.) The reason for the postponement was to allow representatives of the surrounding Blackland Neighborhood to be present, and to get additional input from the City's Neighborhood Housing and Community Development Department.

**December 9, 2008:** Approved the applicant's request of LR-MU-V-CO-CURE-NP (8-0). The Commission also recommended that the private agreement between the applicant and Blackland Community Development Corporation specify that the affordability period be 99 years for purchased units and 40 years for rental units for those units included in the affordable housing portions of their agreement.

## **DEPARTMENT COMMENTS:**

Originally, the applicant had requested to change the Future Land Use Map designation from Single Family to Neighborhood Mixed Use, and to change the zoning from single family residence-neighborhood plan (SF-3-NP) to neighborhood commercial-mixed use-vertical mixed use-conditional overlay-central urban redevelopment area - neighborhood plan (LR-MU-V-CO-CURE-NP). This request was presented to the Planning Commission on July 22, 2008.

This request was amended to a base zoning of neighborhood commercial (LR), and the addition of the Central Urban Redevelopment Area (CURE) overlay. Additionally, the applicant amended his neighborhood plan amendment request, to Neighborhood Mixed Use, which matches the recommendation of staff and the Planning Commission. The neighborhood plan amendment does not need to be reconsidered, however, the new zoning request is being presented for public hearing and Commission recommendation.

**The applicant's zoning request** is Neighborhood Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay – Central Urban Redevelopment – Neighborhood Plan (LR-MU-V-CO-CURE-NP) combining district zoning.

The requested **Conditional Overlay** includes:

- 3 Star Green Building Standards
- Maximum of 2000 daily vehicle trips
- Residential parking garage access will be off of MLK
- Retail parking access will be off of Leona
- Commercial or Retail space limited to 2,499 square feet on this site inclusive of exterior seating
- Residential Units limited to 59 unless written agreement with Blackland Neighborhood Association allowing additional. Parking constraints will limit any total to no more than 66 units

Additionally, the applicant has requested as part of **the CURE overlay**:

- No minimum site area requirements
- No minimum floor to area ratio
- No maximum building coverage
- Setback requirements comparable to those required by a Vertical Mixed Use (V) overlay
- Maximum impervious cover of 95%
- Height -
  - a. For mixed use retail development a height limit of 3 stories or 40' comprised of 38' for the building and 2' additional for rooftop solar energy and mechanical equipment. Retail development will be limited to a maximum of 2499sqft (inclusive of exterior patio seating) and located on the ground floor of the southeast corner of the site
  - b. For residential use, no more than 4 stories with an average height not to exceed a total of 50' comprised of 48' average building height plus 2' for rooftop solar energy and mechanical equipment. For purposes of calculating the average height the shorter height must begin at the eastern building setback on the 1606 MLK property.
- Commercial Design Standards: ground-floor commercial space and glazing requirements will be waived in favor of residential space. All other design standards to remain.

The applicant has also indicated his intent to provide affordable housing as part of the project – a minimum of 6 units affordable to families earning 60% or less of the median family income. Additional details are included in the attached agreement.

The stated intent is to construct a mixed-use project on a vacant one acre site located along E. Martin Luther King Blvd., which is a core transit corridor. The stated intent is to construct a mixed use project, which would consist of 10,000 sq. ft. of retail space, and approximately 35 to 50 units of residential condominiums or apartments in a building that would be three or four stories tall, or approximately 55 ft. in height.

Based on adjacent single-family houses, and the size of the subject property (one acre), staff believes that Neighborhood Mixed Use, rather than Mixed Use is more consistent with the Land Use recommendations in the Upper Boggy Creek Neighborhood Plan. Community Retail (LR) zoning is the highest base commercial zoning category permitted with the Neighborhood Mixed Use Land Use category and is the staff recommendation for base zoning for the site.

The UBC Planning Contact Team also recommends Neighborhood Mixed Use for this project. There has been a petition filed against the request including signatures of property owners representing 36.42% of the land with 200 feet of the subject tract. Since the petition was validated, one property owner, representing 6.03% of the property no longer opposes the project, and other property owners have indicated they no longer object but at this time have not formally removed their names from the petition. If this signer is removed the petition would represent owners of 30.21% of property within 200 feet.

### **EXISTING LAND USE AND ZONING**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NP	Vacant and Single Family Homes
<i>North</i>	SF-3-NP	Vacant
<i>South</i>	P-H-NP	Cemetery
<i>East</i>	MF-3-NP	Single Family Homes
<i>West</i>	SF-3-NP	Vacant, Parking and Single Family Homes

**NEIGHBORHOOD PLAN:** The property lies within the Upper Boggy Neighborhood Plan (UBCNP) adopted on August 1, 2002. The future land use map for this neighborhood plan designates this site for single family residential use.

**TIA:** A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

**WATERSHED:** Boggy Creek      **DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No      **HILL COUNTRY ROADWAY:** No

**REGISTERED COMMUNITY ORGANIZATIONS:**

- Mueller Neighborhood Coalition
- Homebuilders' Association of Greater Austin
- Anberly Airport Association
- Homeless Neighborhood Association
- Davis Thompson American Mill Neighborhood Association
- Upper Boggy Creek Neighborhood Planning Contact Team
- Sentral Plus East Austin Koalition (SPEAK)
- Swede Hill Neighborhood Association
- Blackland Neighborhood Association
- Austin Neighborhood Council
- People Organized to Defend Earth and Her Resources (PODER)
- Blackland Community Development Corporation
- Organization of Central East Austin Neighborhoods (OCEAN)

**SCHOOLS: (AISD)**

Campbell Elementary      Kealing Middle      McCallum High

**ABUTTING STREETS:**

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Daily Traffic</b>
MLK Blvd.	75'	40'	Arterial	14,390
Concho Street	13'	unpaved	Local	NA
Leona Street	56'	30	Local	NA

**PUBLIC MEETINGS:** A neighborhood meeting on this case was held on July 2, 2008. Invitations were sent to the UBC Planning Team (the contact team) and property owners located within 500 feet of the proposed plan amendment. (Notes from this meeting are attached to this report.) The UBC Planning Team stated that although they still preferred a Single Family future land use designation along this portion of E. MLK Blvd., that they could also support Neighborhood Mixed Use if the project was compatible to adjacent single-family land uses.

**CITY COUNCIL DATE:      ACTION:**

**August 7, 2008**      Postponed to August 21, 2008

**August 21, 2008**      Postponed to September 25, 2008

**September 28, 2008**      Postponed to October 16, 2008 at the request of the applicant.

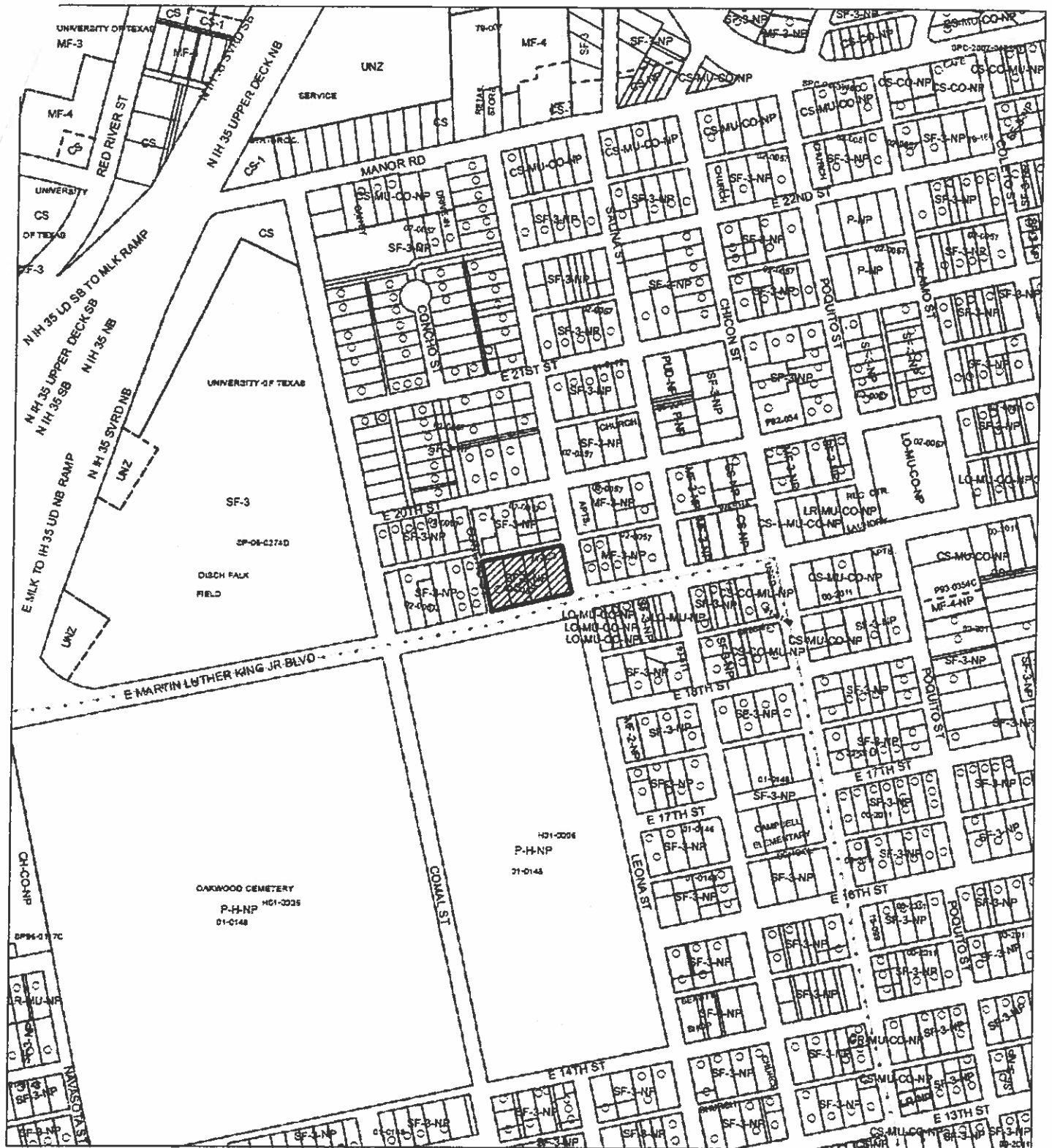
**October 16, 2008:**      Pulled from the agenda at the request of the applicant. The zoning request was amended and the case returned to Planning Commission.

**December 11, 2008**      Public hearing closed and Neighborhood Mixed Use Land Use and LR-MU-V-CO-CURE-NP zoning both approved on first reading (5-2). Those voting aye were: Mayor Wynn, Mayor Pro Tem McCracken, and Council Members Cole, Martinez, and Shade. Those voting nay were: Council Members Leffingwell and Morrison.

**ORDINANCE READINGS:**      1<sup>st</sup> 12/11/08    2<sup>nd</sup>                          3<sup>rd</sup>

**NEIGHBORHOOD PLANNING CASE MANAGER:** Kathleen Fox  
**PHONE:** 974-7877  
**Email:** [kathleen.fox@ci.austin.tx.us](mailto:kathleen.fox@ci.austin.tx.us)

**ZONING CASE MANAGER:** Robert Heil  
**PHONE:** 974-2330  
**E-mail:** robert.heil@ci.austin.tx.us



- LEGEND**
- SUBJECT TRACT**
  - ZONING BOUNDARY**
  - PENDING CASE**

**ZONING**

ZONING CASE#: C14-2008-0099  
 ADDRESS: 1600-1606 E MLK BLVD  
 SUBJECT AREA: 1.000 ACRES  
 GRID: K23  
 MANAGER: J. HARDEN

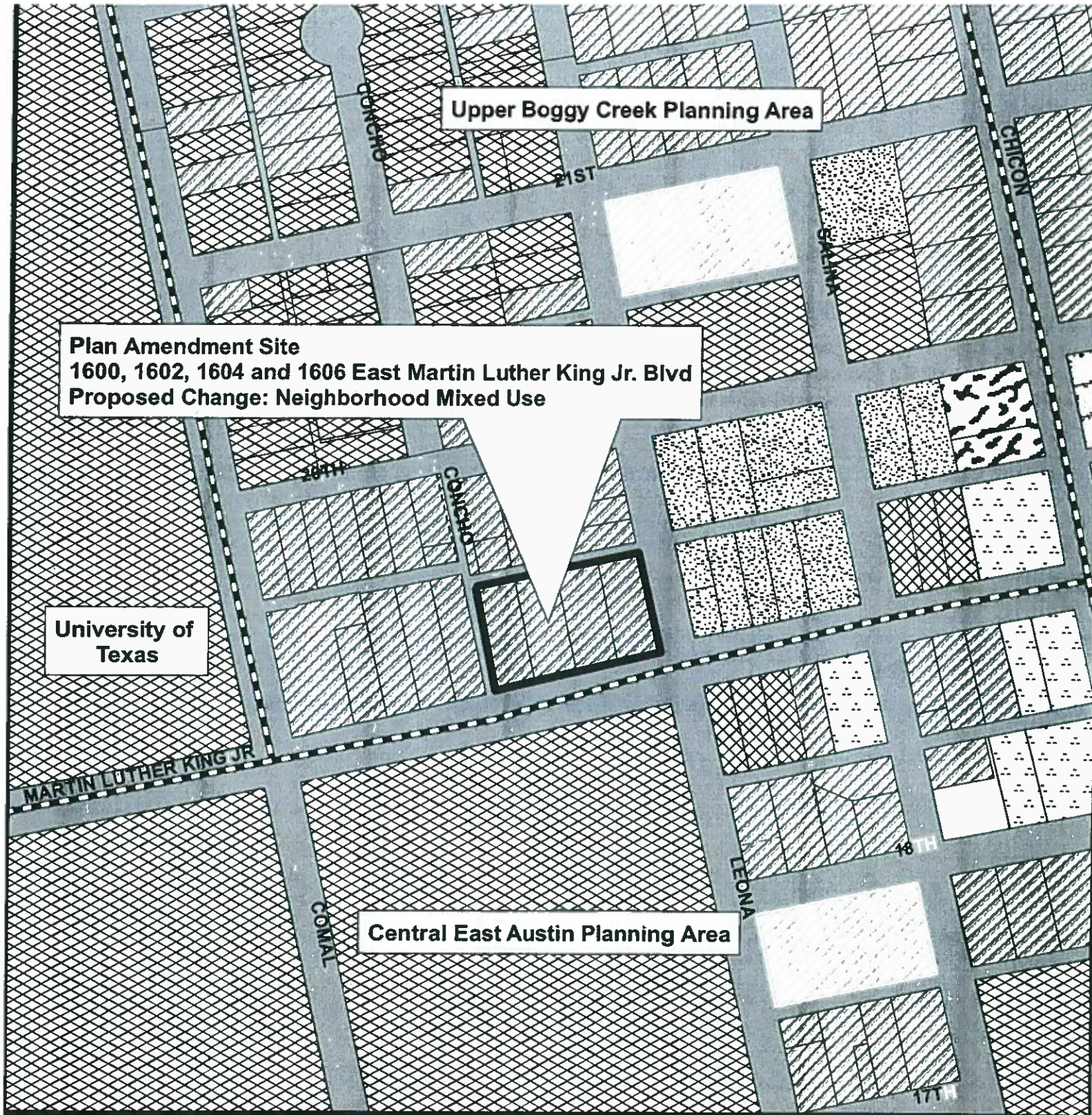
OPERATOR: S. MEEKS

1" = 400'

This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







**Plan Amendment Site**  
 1600, 1602, 1604 and 1606 East Martin Luther King Jr. Blvd  
 Proposed Change: Neighborhood Mixed Use

**University of Texas**

**Central East Austin Planning Area**

## Upper Boggy Creek Neighborhood Plan Amendment NPA-2007-0012.02

This map has been produced by the City of Austin Neighborhood Planning & Zoning Department for the sole purpose of assisting in neighborhood planning discussions and decisions and is not warranted for any other use. No warranty is made by the City regarding its accuracy or completeness.

0 70 140 280 420 560 Feet

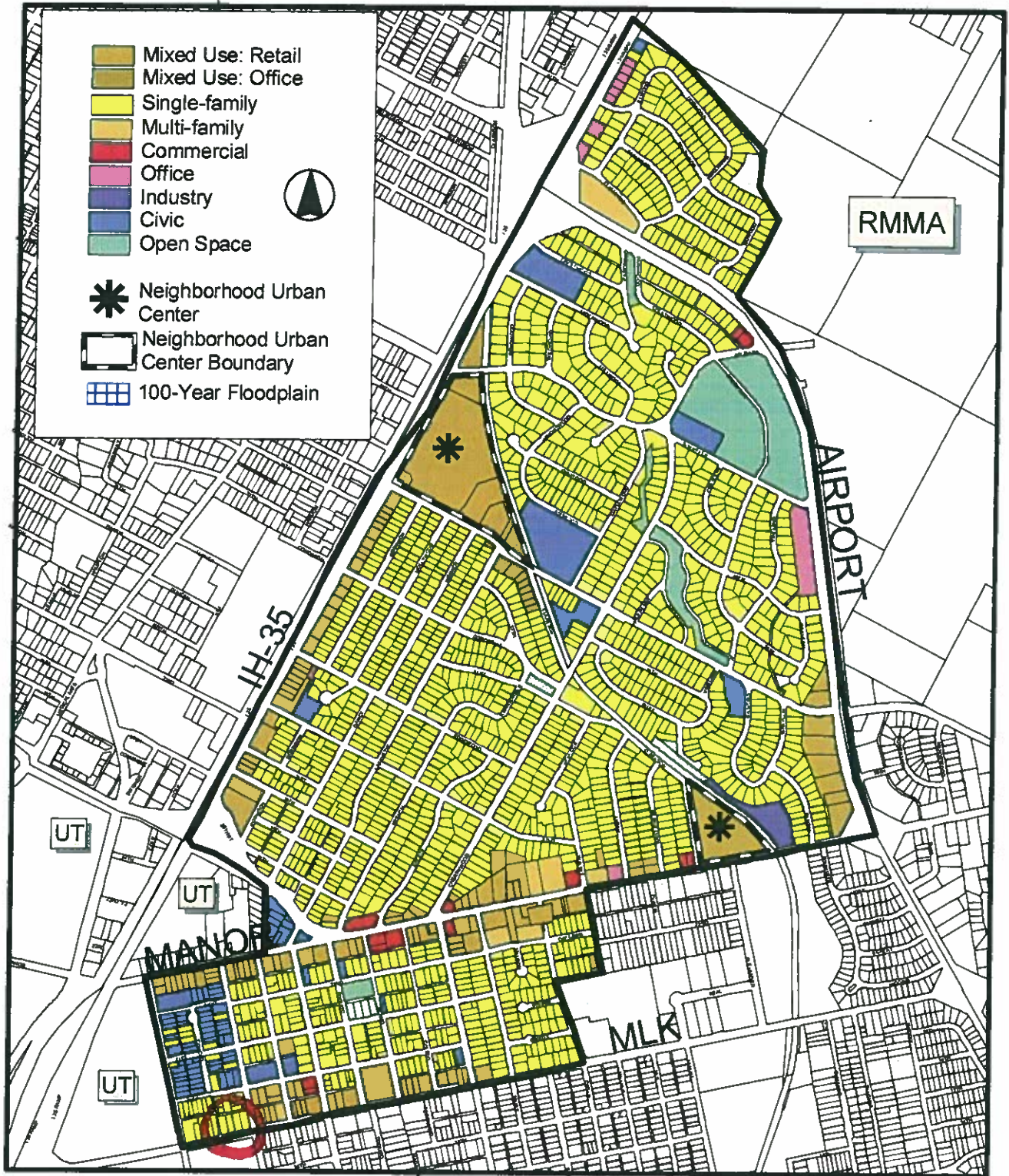


### Legend

<b>flum_combined</b>		Mixed Use
<b>FLU</b>		Mixed Use/Office
		Civic
		Transportation
		SDE.TCAD_Parcels
		Commercial

Updated on June 16, 2008





## Upper Boggy Creek Neighborhood Planning Area: Future Land Use Map



NPZD  
City of Austin

This map is for informational  
purposes only. No guarantee  
can be made as to its accuracy.

For the best possible print results, click the printer icon on the Live Search Maps page.

Location result for

**Austin, Texas, United States**





### **STAFF RECOMMENDATION:**

Staff recommends

- 1) Neighborhood Mixed Use Land Use, and
- 2) Neighborhood Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay (LR-MU-V-CO-NP) combining district zoning. The conditional overlay would include:
  - Development be listed to less than 2000 daily vehicle trips
  - Prohibit vehicle access to Leona (access to Leona could be provided if the applicant completes a neighborhood traffic analysis).

### **BASIS FOR RECOMMENDATION:**

Based on adjacent single-family houses, and the size of the subject property (one acre), staff believes that Neighborhood Mixed Use, rather than Mixed Use is more consistent with the Land Use recommendations in the Upper Boggy Creek Neighborhood Plan. The UBC Planning Contact Team also recommends Neighborhood Mixed Use for this project.

### **ANALYSIS:**

The Future Land Use Map of the UBCNP recommends ‘**Single Family**’ for this portion of E. Martin Luther King Blvd.

*Staff Comments: While the FLUM identifies this section of E. Martin Luther King Blvd. as Single Family, the text in the Land Use Section of the UBC Plan supports mixed use along E. Martin Luther King Blvd. (see below)*

#### **MLK BOULEVARD CORRIDOR** (pg. 33 UBC Plan)

**Objective 2.1:** MLK Boulevard will become a mixed-use corridor that provides services and shopping in a neighborhood-friendly fashion. The streetscape along the MLK Boulevard Corridor—the southern boundary of the planning area—should be pedestrian friendly and promote a safe environment for pedestrians. This includes awnings on the fronts of buildings, street trees, benches, convenient trash bins, etc. Encourage new commercial or mixed-use development along the MLK Boulevard Corridor to locate parking to the side or at the rear of the structure. If in the future the University of Texas decides to locate a parking garage on its property west of Comal Street between MLK Boulevard and Manor Road, the affected neighborhoods and Upper Boggy Creek Neighborhood Planning Team should work with the University of Texas to develop a pedestrian and neighborhood-friendly facility.

- **Action Item 7.** Include a Mixed-Use Combining District and allow the Smart Growth infill option of Mixed-Use Building on all commercially zoned property along MLK Boulevard and limit the height of commercial buildings along the corridor to **forty (40) feet** (three stories).

*Staff comments: The developer wants to build a 55 ft. tall mixed use building along E. Martin Luther King Blvd. The applicant’s 55 ft. tall building appears not comply with the UBC Plan’s desire to keep mixed use development to no taller than 40 ft. tall along E. Martin Luther King Jr. Blvd., and would not match the scale or height of nearby residential uses. The neighborhood also expressed concern during a July 2, 2008, neighborhood meeting that a mixed use project containing up to 50 units of residential*

*housing and 10,000 sq. ft. of retail could not accommodate all the parking on-site and worsen the street parking situation in the area.*

**Goal Three: HOUSING (pg. 44) - Promote the rehabilitation of existing housing and construction of new housing to be compatible with the surrounding neighborhood and architecture for a variety of income levels**

- **Action Item 21.** The Blackland Community Development Corporation and other providers of affordable housing should continue to develop affordable housing for low-income families in the area defined by Leona Street, Manor Road, Chestnut Avenue and MLK Boulevard. Affordable housing for these purposes is defined as sixty percent of Austin area median family income. To this goal, the Upper Boggy Creek Neighborhood Planning Team supports the granting of variances to allow these parties to provide affordable housing. *(BOA, Neighborhoods)*

*Staff comments: The applicant has held several meetings with the Blackland Neighborhood Association, who expressed concern that this project could reduce the amount of affordable housing located on or near E. Martin Luther King Blvd. However, the applicant has stated that they are committed to including an affordable housing element in their mixed use project (See attached neighborhood meeting notice and planning contact team minute)*

Staff's interpretation of the UBC Neighborhood Plan's recommendations above is that the Plan does not support a mixed use project over 40 ft. tall along E. Martin Luther King Blvd. because of the neighborhood's desire to keep commercial and mixed use project in scale with the neighborhood. Based the UBC Plan, the UBC Planning Team's recommendations, nearby single family houses, and the size of the subject property, staff believes that Neighborhood Mixed Use rather than Mixed Use is more appropriate for this portion of E. Martin Luther King Blvd.

### **Site Plan**

This site is located within the boundaries of the Central Urban Redevelopment (CURE) Combining District and is subject to § 25-2-163 of the Land Development Code. Additional comments will be made when the site plan is submitted.

Martin Luther King Blvd is a Core Transit Corridor, and any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The site is subject to compatibility standards. Along the north, east and west property lines, the following standards apply:

- No structure may be built within 15 feet of the SF-3 zoned property lines.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the SF-3 zoned property lines.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the SF-3 zoned property lines.

- No parking or driveways are allowed within 25 feet of the SF-3 zoned property lines.
- A landscape area, fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.

### **Transportation**

If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Concho Street in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site. LDC, 25-6-55; TCM, Tables 1-7, 1-12.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

A Neighborhood Traffic Analysis is required and will be performed for this project by the Transportation Review staff. Results will be provided in a separate memo. LDC, Sec. 25-6-114. FYI: The Neighborhood Traffic Analysis can be waived if the applicant agrees to restrict access to Martin Luther King, Jr. Boulevard only.

#### **Other Information**

- There are existing sidewalks along both sides of MLK Blvd.
- MLK Blvd. is classified in the Bicycle Plan as a Priority 1 bike route.
- Capital Metro bus service Route 18 is available along MLK Blvd.

Additional comments may be provided when more complete information is obtained.

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area.



At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

**Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocation, and abandonment. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



## MEMORANDUM

**TO:** Robert Heil, Case Manager, NPZD  
**CC:** Carter Shanklin  
**FROM:** Amber Mitchell, WPDR  
**DATE:** December 8, 2008  
**SUBJECT:** Neighborhood Traffic Analysis for 1600 MLK  
Zoning Case: 1600 MLK C14-2008-0099

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The Transportation Section has performed a neighborhood traffic impact analysis for the above referenced case and offers the following comments.

The site is located in east Austin on Martin Luther King Jr. Blvd between Concho and Leona Streets near the intersection of IH and Martin Luther King Jr. Blvd. Currently zoned Family Residential Neighborhood Plan (SF-3-NP), the request is for Neighborhood Commercial Vertical Mixed Use Conditional Overlay Central Urban Redevelopment Combining District Neighborhood Plan (LR-MU-V-CO-CURE-NP). The applicant proposes a mixed-use development with ground floor retail and multi-family residences above. Surrounding the tract to the north, east, and west is single family, and to the south is a cemetery.

### Roadways

Leona forms the eastern boundary of this site and is classified as a local street with 56 feet of right-of-way and 30 feet of pavement. Concho Street forms the western boundary of this site and is classified as a local street but is in substandard condition, essentially functioning as an alley with 15 feet of right-of-way and 10 feet of pavement. The site is bound to the north by an alley with 20 feet of right-of-way and 11 feet of pavement. Martin Luther King Jr. Blvd is the southern boundary of the property and is classified as an undivided major arterial with 77 feet of right-of-way and 38 feet of pavement. According to Section 25-6-114 of the Land Development Code, both Leona Street and Concho Street are considered local streets because at least 50 percent of the frontage within 1,500 feet of the subject tract has an urban family residential district (SF-5) or more restrictive zoning designation.

### Trip Generation and Traffic Analysis

Based on the ITE's publication Trip Generation, and assuming the site develops to the maximum intensity allowed under the proposed zoning classification (without consideration of setbacks, environmental constraints or other site characteristics) the proposed development at the time of site plan may generate an approximate average of 2,359 (vpd) per site. However, the applicant has agreed to a conditional overlay of 2,000 trips for the site. The trip generation for the subject tract is summarized in Table 1.

Table 1. Trip Generation		
LAND USE	SIZE	VPD
Mixed-Use	Not determined	2,000
<b>TOTAL</b>		<b>2,000</b>

Table 2 represents the expected distribution of the 2,000 trips:

Street	Trip Distribution
MLK Jr. Blvd	65%
Leona St	15%
Concho St	5%
<b>Total</b>	<b>100%</b>

Table 3 represents a breakdown of background traffic\*, proposed site traffic, and total traffic after development along Concho Street, Leona Street, and Martin Luther King Jr. Blvd.

Street	Pavement Width (Ft)	Maximum Desirable Volume (vpd)	Background Traffic (vpd)*	Proposed Site Traffic (vpd)	Overall Traffic (vpd)
Concho Street	10	1,200	66	100	166
Leona Street	30	1,800	900	300	1,200
MLK Jr. Blvd	38	N/A	16,027	1300	17,327


\*Background traffic includes current traffic levels as well as recently approved zoning cases and zoning cases under consideration that could increase traffic on the streets under study.

The Land Development Code specifies desirable operating levels for certain streets in section 25-6-116. These levels are as follows: A residential local or collector street with a pavement width of less than 30' should carry 1,200 vehicles per day or less and a residential local or collector street with a pavement width between 30' and 40' should carry up to 1,800 vehicles per day.

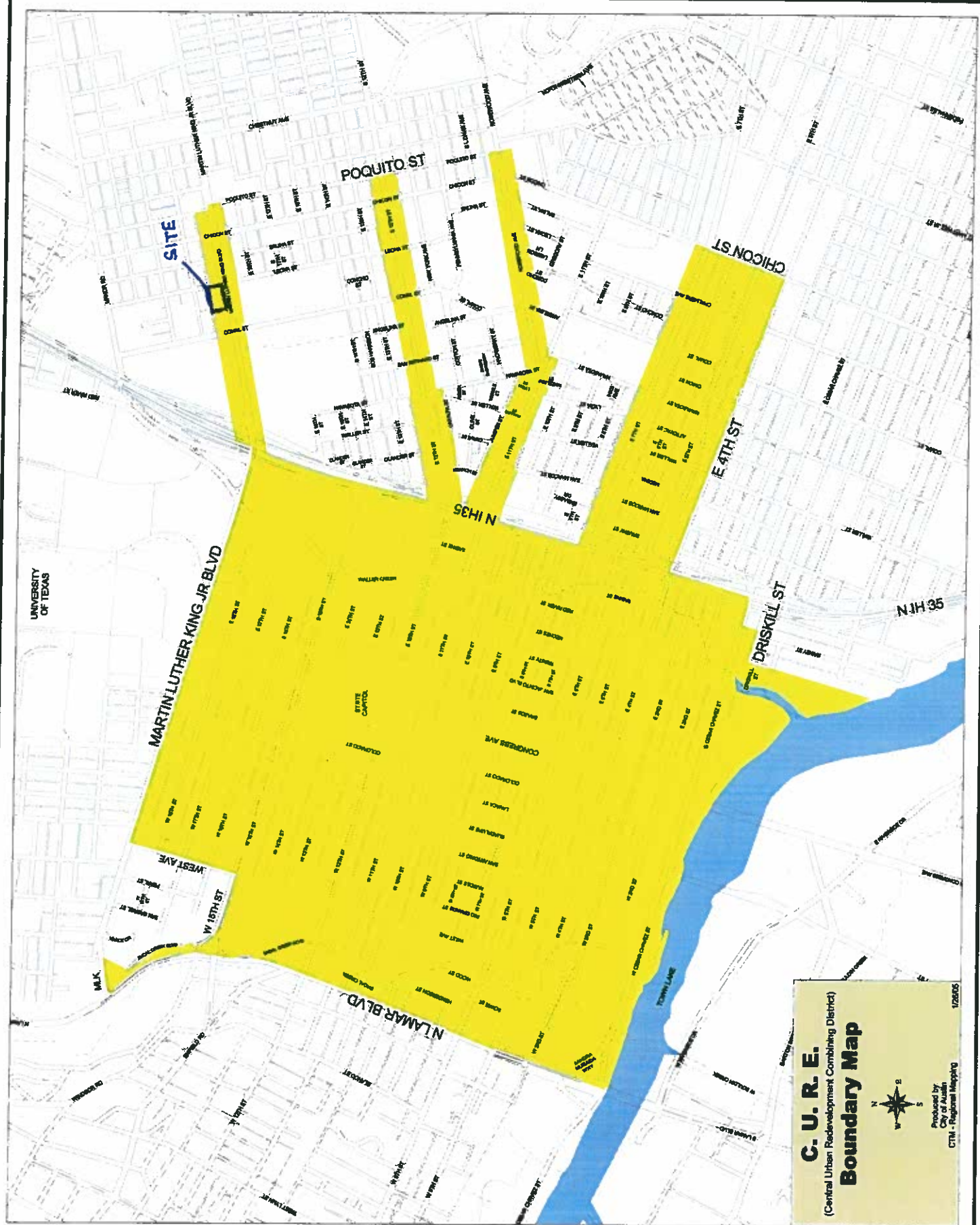
### **Conclusions**

1. The neighborhood traffic analysis was triggered because the projected number of vehicle trips generated by the project exceeds the vehicle trips per day generated by existing uses by at least 300 trips per day, and the project has access to a local or residential collector street where at least 50 percent of the site frontage has an SF-5 or more restrictive zoning designation.
2. Currently, Concho and Leona Streets operate at a desirable level and will continue to operate at a desirable level with the addition of site traffic from the proposed development.
3. Concho St is considered to be in substandard condition and the applicant will need to acceptably upgrade the street at the time of site plan if access is proposed.
4. Staff recommends that this site be limited through a conditional overlay to 2,000 trips per day.

If you have any questions or require additional information, please contact me 974-3428.

  
Amber Mitchell

Senior Planner – Watershed Protection Development Review Department



**C. U. R. E.**  
(Central Urban Redevelopment Combining District)  
**Boundary Map**

Produced by  
City of Austin  
CTM - Regional Mapping

1/25/05





# CONCEPT SITE PLAN

PSW- MLK Project

Austin, Texas

SEPTEMBER 30 2008



**From:** Potter, David [mailto:David.Potter@ci.austin.tx.us]  
**Sent:** Friday, October 31, 2008 4:43 PM  
**Subject:** Our meeting today

Hi, guys --

Thanks for coming in to visit.

First of all, I'm attaching two spreadsheets that may be helpful in fleshing out some numbers. One is for ownership and the other for rental. If you need any tips on the use of these, let me know. Click on the different colored tabs to go to different sheets within each document.

Next, I'll restate some of the figures we talked about. The per-project limit for non-profits is \$2 million. For for-profit organizations, the limit per project is \$1 million. These limits apply to acquisition, rehab, and new construction.

In addition, rehab and new construction projects have per-unit limits. For-profits: \$40,000 per unit in a multi-residence structure. Non-profits: \$60,000 per unit.

Another point brought up was that our funding can only be used on units that will serve folks at 50% MFI or less, so if Blackland is considering using these as rentals, they could not be rented to folks at 60% MFI. Currently, the rent limit for 50% MFI would be (including utilities) \$666 for a 1BR and \$800 for 2BR. Blackland will need to re-work their numbers to see if it is still feasible at 50% MFI.

I checked TCAD and the 25 properties listed as being owned by Blackland CDC are totally exempt from property tax, and I see no reason why any units purchased in this new development would be treated any differently by the Appraisal District. Given that Blackland's properties are exempt, then there would be no need for AHFC to have to acquire and then lease the units back to Blackland to make them tax-exempt.

We talked about projects being located in areas of higher opportunity with respect to education, transportation, health care, etc. The Blackland Neighborhood is in an area that would be considered one of the highest areas of opportunity and would get the maximum number of points on that particular criterion.

Also, I mentioned the idea of forming a partnership of some type with Blackland CDC for these 6 or more units. This would provide access to construction financing up to \$60K per unit as well as funds to acquire the units, rather than only having funds available at the end for acquisition. One example of a non-profit/for-profit partnership is one between Guadalupe Neighborhood Development Corporation (Mark Rogers, Exec. Dir.) and KRDB (Krager-Robertson-Design-Build) to develop what they are calling Solutions Oriented Living (SOL) development.

I hope this information is helpful, and I look forward to visiting with you both again.  
DP

David Potter  
Housing Development Manager  
City of Austin/Austin Housing Finance Corp.  
P. O. Box 1088  
Austin, TX 78767-1088  
(physical address: 1000 East 11th St., 2nd Floor, Austin, TX 78702)  
512-974-3192; 512-974-1048 (fax)

## Blackland Community Development Corporation

*The Dream starts here...*

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December 11, 2008  
2005 Salina Street  
Austin, Texas 78722  
512-474-6009  
[bmccarver@austin.rr.com](mailto:bmccarver@austin.rr.com)

Mayor Will Wynn and Councilmembers  
City of Austin  
P.O. Box 1088  
Austin, TX 78701

Ref.: Rezoning of 1600 – 1606 MLK

Dear May Wynn and Councilmembers:

After more than a year of deliberations with Jacaranda Investments, the applicants for rezoning 1600 – 1606 MLK, the Blackland Neighborhood Association has voted to enter into the attached agreement and endorse the rezoning. Compromises have been made by all parties concerning traffic, parking, compatibility and affordable housing.

The compromises compel the Blackland Community Development Corporation (BCDC) to withdraw its position on the valid petition. The BCDC board is split on this issue with several board members continuing objections to the low amount of affordable housing offered, particularly in light of the potential loss of nearby affordable units by marginal homeowners who will absorb increased taxes on their lots. The majority of the board accepts the compromise, however, in light of the uncertain economy and increased construction costs.

I have talked with Dr. June Brewer, also a signer of the petition, who withdraws her position. Mr. Milton Gooden maintains his opposition to the project and his position on the valid petition. I understand from Robert Heil that Mr. Gooden controls 21 percent of the property within 200 feet of the proposed rezoning.

We appreciate the efforts of all parties to reach this compromise. It appears as if this item will be late in the Council's agenda -- if it is heard after 6 PM I will not be able to participate. Thank you for your consideration.

Sincerely,



Bo McCarver, Ph.D., Chair  
Blackland Community Development Corporation

CC: Alan Hampton, President, Blackland Neighborhood Association  
Ryan Diepenbrock, Jacaranda Investments  
Robert Heil, Senior City Planner

# Zoning & Development Agreement

≈

For the properties commonly known as: 1600, 1602, 1604 & 1606 E. MLK Jr. Blvd (the “Properties”), subject to the Upper Boggy Creek Neighborhood Plan and in the boundaries of the Blackland Neighborhood Association.

The purpose of this agreement is to detail base zoning designations, zoning modifications, height compatibility variances and affordable housing commitments that will govern the development that can take place on the properties at 1600 – 1606 E. MLK Blvd (the “Agreement”). The Agreement reflects extensive direct negotiation between the developer, PSW Jacaranda, LLC (PSW), the Blackland Neighborhood Association and the Blackland Community Development Corporation.

## Zoning

1. Base Zoning: LR-V-MU-CO-NP-CURE
2. Modifications to base zoning per existing CURE Overlay

### Height:

- a. For the retail development portion of the site, the maximum height shall be 3 stories or 40 feet in accordance with the base zoning height limitations.
- b. For the residential development portion of the site, a maximum height of 4 stories or 50 feet shall be allowed.

### Commercial Design Standards:

The ground-floor commercial space and glazing requirements will be waived in favor of residential space.

### Dimensional Standards:

The Properties shall not be subject to or limited by the dimensional standards applicable to the base zoning district as listed below:

- a. Minimum site area requirements
- b. Maximum floor area ratio
- c. Maximum building coverage
- d. Minimum street side yard setback and interior yard setback
- e. Minimum front yard setback provided it is 30 feet from the centerline of the street to ensure adequate Fire Department access

### Impervious Coverage:

- a. Impervious coverage shall be limited to a maximum of 95%
- b. The total building footprint for structures built above grade shall be limited to a maximum of 80%
- c. Courtyard areas, landscaping and other common grounds will cover at least 10% of the site
- d. Sidewalks, driveways, surface parking and access, etc. will cover the remaining area of the site

### 3. Conditional Overlays on base zoning

- a. The Commercial or Retail space shall comprise no less than 1,000 square feet and no more than 2,499 square feet inclusive of exterior seating areas. The Commercial or Retail space shall be located on the ground floor of the southeast corner of the site.

- b. A 3-Star Austin green building minimum rating is required
- c. Traffic and Access:
  - 1. The Properties shall be limited to 2,000 trips per day
  - 2. Parking garage access to the Properties will be from Martin Luther King Jr. Blvd
  - 3. Retail surface parking access to the Properties will be from Leona
- d. The maximum Residential Units that can be built under a combined site plan shall be limited to 66

#### Compatibility Variance

In order to implement the above height allowances a compatibility waiver from the Board of Adjustments will be necessary. All parties agree that approval of this height and setback compatibility variance is necessary to this Agreement and the Agreement is void without it.

#### Affordable Housing

- a. A minimum of 6, two-bedroom rental units available to income levels of 60% MFI will be provide by PSW for a minimum of forty (40) years with or without the assistance of funds from non-profit associations or City, State or Federal affordable housing monies. PSW agrees to apply for those affordable housing funds the development does qualify for to attempt to bring the qualifying MFI down to less than 60%. PSW agrees that these affordable units will not be clustered in one location but instead inter-mingled with all other similar units. As rental units, the unit finish out (fixtures, appliances, trim, flooring, etc) is not required to be at the same level as the for-sale units.
- b. PSW agrees to donate to the Blackland Community Development Corporation 75% of the profits from the sale of all units over 59 that are built. This donation will not be less than \$100,000, regardless of how many units above 59 are actually constructed. This donation will be made in four intervals of \$25,000 each when 25%, 50%, 75% and 100% of the residential units are sold and the transactions have closed. The method of calculating profits and actual costs incurred will be shared, in confidence, with the Treasurer of the Blackland Community Development Corporation by PSW at the time the profit determination is made. The total donation will be equal to 75% of the average profit realized on each unit times the number of total residential units constructed over 59, or \$100,000 which ever is greater. Therefore the final \$25,000 payment when 100% of the units are sold may be adjusted upwards if the profit calculation warrants. This donation must be used by the Blackland Community Development Corporation in a manner that benefits their affordable housing goals.

#### Agreements of the Parties:

PSW agrees to the base zoning, zoning modifications, conditional overlays, compatibility variance and affordable housing commitment and understands these will limit the development of the Properties as indicated above.

The Blackland Neighborhood Association agrees to the zoning, zoning modifications, conditional overlays, compatibility variance and affordable housing commitment and further agrees to provide both written and testimonial support to City Staff, Planning Commission, City Council and the Board of Adjustment in support of the agreed-to zoning, zoning modification, conditional overlays and height compatibility waiver request. In addition, the Blackland Neighborhood Association agrees to support applications made for City, State or Federal housing funds to be used to reduce the MFI of the affordable units from 60%.

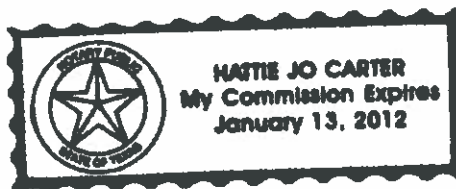
This Agreement shall be binding upon and inure to the benefit of each of the parties hereto, their respective successors and assigns.

This Agreement represents the entire Agreement among the parties with respect to the subject matter hereof and may not be amended except by an addendum set forth in writing and signed by each of the parties. If any

party is found to be in breach of this Agreement, that party shall be responsible for the other parties' costs of court, costs of service, and reasonable attorney's fees incurred in such legal proceedings.

Agreed to this 11 day of December 2008, by

J. Ryan Diepenbrock  
J. Ryan Diepenbrock  
PSW Jacaranda, LLC



STATE OF TEXAS §

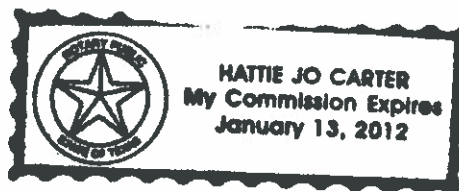
COUNTY OF TRAVIS §

Before me Hattie Jo Carter Notary Public, on this day appeared J. Ryan Diepenbrock (name), known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this 11<sup>th</sup> day of December, 2008.

Hattie Jo Carter  
Notary Public, State of Texas

Alan Hampton  
Alan Hampton  
President  
Blackland Neighborhood Association



STATE OF TEXAS §

COUNTY OF TRAVIS §

Before me Hattie Jo Carter Notary Public, on this day appeared Bo McCarver (name), known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this 11<sup>th</sup> day of December, 2008.

Hattie Jo Carter  
Notary Public, State of Texas

Bo McCarver  
Bo McCarver  
Blackland Community Development Corporation



STATE OF TEXAS §

COUNTY OF TRAVIS §

Before me Hattie Jo Carter Notary Public, on this day appeared Bo McCarver (name), known to me personally to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this 11<sup>th</sup> day of December, 2008.

Hattie Jo Carter  
Notary Public, State of Texas



RECEIVED

JUN 02 2008

Neighborhood Planning & Zoning

## Petition

Date: June 2, 2008  
File Number: C14-2008-0099

Address of Rezoning Request: 1600 – 1606 MLK Blvd.

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than SF-3.

We believe that the proposed height (55') and scale of the project are incompatible with surrounding properties and the general retail zoning requested by the developers will worsen traffic and parking problems in an area already badly congested. The developers have not offered sufficient affordable units or any firm plan to provide such units.

Signature

Printed Name

Address

Bo McCarver

Bo McCarver  
for Blackland CDC

1719 Manor Rd  
Austin Tx 78722

Milton Gooden

MILTON Gooden

11400 Circle Bend Drive  
Austin TX 78758

June H. Brewer

JUNE H. Brewer

1909 Leona St  
Austin Tx 78722

Date: June 2, 2008

Contact Name: Bo McCarver  
Phone 474-6009

## Petition

Date: June 2, 2008

File Number: C14-2008-0099

Address of Rezoning Request: 1600 – 1606 MLK Blvd.

To: Austin City Council

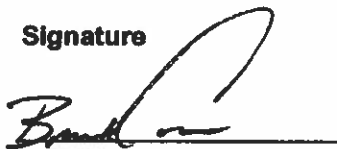
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Signature

Printed Name

Address



Brooks Calavan

1801 Salina st Austin, TX 78702

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Date: \_\_\_\_\_

Contact Name: Bo McCarver  
Phone 474-6009

## **Petition opposing rezoning 1600 – 1606 MLK Case # C14-2008-0099**

### **Computation of Square Footage within 200' of Property with rezoning request**

*Volume of lots in rezoning request*

4 lots, 65' wide and 149' long = 38,740'

*200' envelop around those four lots*

$(149' + 200' + 200' = 549') \times (65' + 200' + 200' = 465') = 255,285$

Volume of properties within 200'. Minus properties included in rezoning request

$255,285 - 38,740 = 216,545'$

### **Volume of properties by protesting parties**

02110916110000	Blackland CDC	1700 MLK	
43.3' + ½ 50' on Leona St. X 149' plus ½ 20' alley (68.3X159') =			10859.7'
02110715090000	Gooden, Winnie	1510 MLK Blvd.	
49' + ½ 10' alley X 191.43 + ½ 60' MLK + ½ 20' alley (59' X 231.43) =			13654.37'
02110715100000	Gooden, Winnie	1508 MLK Blvd.	
52' X 191.43 + ½ 60' MLK + ½ 20' alley (52 X 231.43) =			12034.56
02110715110000	Gooden, Winnie	1506 MLK Blvd.	
51.5 X 191.43 + ½ 60' MLK + ½ 20' alley (51.5 X 231.43) =			11918.65
02110715030000	Gooden, Winnie	1505 E. 20 <sup>th</sup>	
40.15' X 136.36 + ½ 20' alley + ½ 40' of 20 <sup>th</sup> St. (40.15 X 166.36) =			6679.35
02110715040000	Gooden, Winnie	1507 E. 20 <sup>th</sup>	
40.15' X 136.36 + ½ 20' alley + ½ 40' of 20 <sup>th</sup> St. (40.15 X 166.36) =			6679.35
20110715050000	Gooden, Winnie	1509 E. 20 <sup>th</sup>	
40.15' X 136.36 + ½ 20' alley + ½ 40' of 20 <sup>th</sup> St. (40.15 X 166.36) =			6679.35
02110916070000	Gooden, Winnie	1704 MLK	
43.3' X 149' + ½ 60' MLK + ½ 20' alley (43.3 X 189) =			8183.7
02110916080000	Gooden, Winnie	1702 MLK	
43.3' X 149' + ½ 60' MLK + ½ 20' alley (43.3 X 189) =			8183.7
02110916010000	Brewer, June Harden	1901 Leona	
02110916010001	Brewer, June Harden	1901 Leona	
(The above properties constitute one lot.)			
149 + ½ 20' alley + ½ 50' E. 20 <sup>th</sup> X 65' + ½ 50' Leona St. (184 X 90)			16560
02090901010000	Calavan Family Partnership	1710 E MLK Blvd	
43.3 + ½ 50' Leona St. X 147.67 + ½ 20' Alley + ½ 60' MLK (68.3 X 187.67) =			12817.9
02090901020000	Calavan Family Partnership	1703 E MLK Blvd	
43.3 X 147.67 + ½ 20' Alley + ½ 60' MLK (43.3 X 187.67) +			8121.67
02090901120000	Calavan Family Partnership	1705 E MLK Blvd	
43.3 X 147.67 + ½ 20' Alley + ½ 60' MLK (43.3 X 187.67) +			8121.67
<b>Total volume of protesting lots</b>			<b>130502.85</b>
<b>% protesting lots (130502.85 / 216545)</b>			<b>60.3%</b>

# PETITION

Case Number:

**C14-2008-0099**

Date:

July 22, 2008

**1600-1606 MLK BLVD**

Total Area Within 200' of Subject Tract

293,335.68

1	<u>02-0909-0101</u>	<u>CALAVAN FAMILY</u> <u>PARTNERSHIP LTD</u>	<u>10,541.89</u>	<u>3.59%</u> *
2	<u>02-0909-0102</u>	<u>CALAVAN FAMILY</u> <u>PARTNERSHIP LTD</u>	<u>6,309.60</u>	<u>2.15%</u> *
3	<u>02-0909-0112</u>	<u>CALAVAN FAMILY</u> <u>PARTNERSHIP LTD</u>	<u>4,063.26</u>	<u>1.39%</u> *
4	<u>02-1107-1503</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>176.74</u>	<u>0.06%</u>
5	<u>02-1107-1504</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>2,787.06</u>	<u>0.95%</u>
6	<u>02-1107-1505</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>4,790.75</u>	<u>1.63%</u>
7	<u>02-1107-1509</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>12,397.91</u>	<u>4.23%</u>
8	<u>02-1107-1510</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>12,726.85</u>	<u>4.34%</u>
9	<u>02-1107-1511</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>12,066.48</u>	<u>4.11%</u>
10	<u>02-1109-1601</u>	<u>BREWER JUNE</u> <u>HARDEN</u>	<u>15,633.00</u>	<u>5.33%</u>
11	<u>02-1109-1607</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>8,072.59</u>	<u>2.75%</u>
12	<u>02-1109-1608</u>	<u>GOODEN WINNIE H</u> <u>MRS</u>	<u>8,753.55</u>	<u>2.98%</u>
13	<u>02-1109-1611</u>	<u>BLACKLAND</u> <u>COMMUNITY</u>	<u>7,980.37</u>	<u>2.72%</u>
14				<u>0.00%</u>
15				<u>0.00%</u>
16				<u>0.00%</u>
17				<u>0.00%</u>
18				<u>0.00%</u>
19				<u>0.00%</u>
20				<u>0.00%</u>
21				<u>0.00%</u>
22				<u>0.00%</u>
23				<u>0.00%</u>
24				<u>0.00%</u>

Validated By:

Stacy Meeks

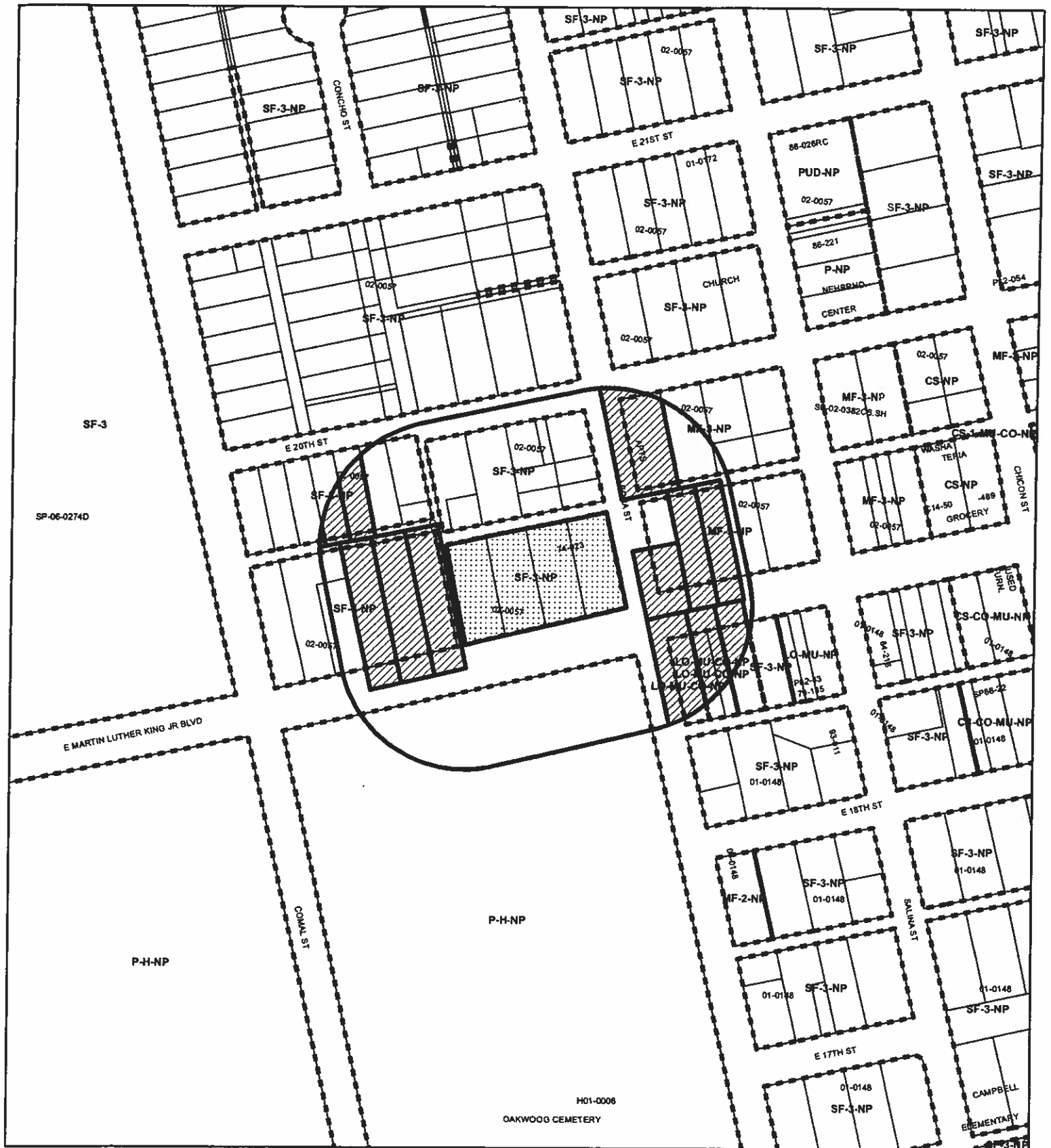
Total Area of Petitioner:

106,300.05

Total %

36.24%





\* has indicated his  
intent to remove  
his name from the  
petition



# PETITION

CASE#: C14-2008-0099  
 ADDRESS: 1600-1606 E MLK BLVD  
 GRID: K23  
 CASE MANAGER: J. HARDEN



-  Subject Tract
-  Property Owner
-  Buffer
-  Zoning Boundary

1" = 200' OPERATOR: SM

This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



**Subject:** MLK

Carter and Ryan,

It was great meeting you both this morning. I definitely support you in your rezoning case and will work with you to revoke or remove my opposition now that I understand that you have tried to work with the neighborhood. That was the only reason I originally signed the petition. Let me know what I can do to help.

Sincerely,

Brooks Calavan  
1801 Salina St.  
Austin, Tx 78702  
512-626-6547

7/31/2008

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

**Case Number:** C14-2008-0099

**Contact:** Robert Heil, 512-974-2330

**Public Hearing:**

July 22, 2008 Planning Commission

August 7, 2008 City Council

☐ I am in favor  
☒ I object

Carlyn L Taylor  
Your Name (please print)

1800 East MLK Jr Blvd  
Your address(es) affected by this application

Carlyn L. Taylor 7-16-08  
Signature Date

Comments: This neighborhood should  
be kept residential.  
Therefore, the rezoning in  
question should remain  
zoned as "single family".

If you use this form to comment, it may be returned to:

City of Austin  
Neighborhood Planning and Zoning Department  
Robert Heil  
P. O. Box 1088  
Austin, TX 78767-8810

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Case Number: C14-2008-0099

Contact: Robert Heil, 512-974-2330

Public Hearing:

July 22, 2008 Planning Commission

August 7, 2008 City Council

☐ I am in favor  
☒ I object

*Jewell Jackson*

Your Name (please print)

*1704 East 18th St. - Austin, TX 78702*

Your address(es) affected by this application

*Jewell Jackson* 7-22-08

Signature

Date

Comments: *Single families developed the East Side. We would see the UT Tower & the Capital building. Now because of the Museum & mixed use I & 3 other buildings ~~over~~ over shadow the view. Single families were ok when it was just no blocks. But now white developers want to take over the East side. High rise buildings take away the history of the East side. Why is it always the East side??*

If you use this form to comment, it may be returned to:

City of Austin

Neighborhood Planning and Zoning Department

Robert Heil

P. O. Box 1088

Austin, TX 78767-8810